

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10594 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?  
( No. 1 to 5 - NO)

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JABABEN RAISINH

Versus

COMPETENT AUTHORITY & ADDL. COLLECTOR

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Appearance:

MR MI HAVA for Petitioners

MR. S.P. DAVE, LD. GOVT.COUNSEL for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 12/02/97

ORAL JUDGEMENT

One Mohansinh Nathusinh Gohil, resident of Village Magob under the Choryasi Taluka of the Surat District had presented the requisite form under Section 6(1) of the Gujarat Urban Land Ceiling Act, 1976, showing four parcels of land. In the present petition, I am concerned with the land bearing Survey No. 5 situated at

Village Magob admeasuring 4249 sq. meters. Suffice it would be to notice at this juncture that the holder Mohansinh Gohil had not said anything in respect of this land bearing Survey No. 5. Any how the Competent Authority while deciding the proceedings under the orders dated December 18, 1987 has come to the conclusion that the land admeasuring 4245.22 sq. meters from Survey No.5 situated at Village Magob requires to be declared as the Excess Vacant Land of the holder Mohansinh Gohil. This orders were carried in appeal by Mohansinh Gohil before the Urban Land Tribunal, by filing the Appeal No. Surat-53 of 1992. A specific contention was advanced before the Tribunal saying that the land bearing Survey No. 5 situated at Village Magob cannot be declared to be the excess vacant land without hearing the occupants and owners of the land, namely the petitioners. Any how, the Ld. Tribunal was pleased not to countenance this aspect of the case of the appellant being presented before him. This is clear when the impugned orders dated December 22, 1994 available at Annexure-B are perused.

The principal contention coming from learned counsel Mr. Hava for the petitioners is that the land bearing Survey No. 5 situated at Village Magob was never shown as the holding of Mohansinh Gohil, who had submitted the requisite form under Section 6(1) of the Act of 1976, and that, the said land has been declared to be the excess vacant land belonging to Mohansinh Gohil, without affording any opportunity of hearing to the petitioners. It requires to be appreciated that, in this respect a specific contention came to be raised before the Tribunal but it has not been found favour of the Tribunal. Factually learned Govt. Counsel Mr. S.P.Dave was not in a position to point out a different fact situation. It is abundantly clear, regard being had to the record and especially the village forms that three petitioners were interested in the above said land bearing Survey No.5 situated at Village Magob. The land belonging to them could not have been declared as the excess vacant land in the proceedings which were initiated on the basis of the form presented by Shri. Mohansinh Gohil. At any rate, before saying anything in respect of this land, the present petitioners were required to be afforded a reasonable opportunity of being heard, which is admittedly not done. In view of this, it appears that the present petition requires to be granted and the matter requires to be remanded to the Competent Authority to decide the question in respect of the above said land bearing Survey No.5 situated at Village Magob, after affording a reasonable opportunity of being heard to the petitioners. I order accordingly. The effect would be

that, the said orders of the Competent Authority at Annexure-A dated 18-12-1987 and the orders of the Tribunal at Annexure-B dated 22-12-1994 shall stand quashed and the matter shall stand remanded to the Competent Authority for decision, according to law and on merits, as indicated by me above.

The remanded proceedings shall have to be decided by the Competent Authority as expeditiously as possible and at any rate within a period of four months from the date of receipt of writ of the present orders.

It shall have to be clarified upon a plea coming from learned counsel Mr. Hava for the petitioners that the consequential orders and notifications shall also stand quashed, in view of the above said orders of mine in the petition.

Rule is made absolute to the above said extent, with no order as to cost.

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